



Supreme Court Holds That Under the 2005 Amendments, An Injury Is Not Compensable Merely Because It Happened At Work

On June 30, 2009, the Missouri Supreme Court issued its Opinion in *Miller v. Missouri Highway & Transportation Commission*. *Miller* was the first workers' compensation case in which the Missouri Supreme Court construed and applied the 2005 amendments to the Workers' Compensation Act, redefining the terms "accident" and "injury". The workers' compensation case was tried by Robert E. Bidstrup from our St. Louis office. Mary Anne Lindsey, of our St. Louis office, briefed the matter before the Missouri Supreme Court, and presented oral arguments to the Missouri Supreme Court in the employee's appeal.

Mitchell Miller filed a workers' compensation claim against the Missouri Highway and Transportation Commission, seeking benefits after he experienced a popping of his knee, followed by pain, while walking briskly at work. It was undisputed that the injury occurred while Miller was at work, but that nothing about Miller's work caused the knee injury. After hearing, the Administrative Law Judge denied Miller's claim, finding that Miller failed to meet his burden of proving that he suffered a compensable injury as a result of a work-related accident arising out of and in the course of his employment. The Industrial Commission affirmed, adopting the Administrative Law Judge's Award. Thereafter, Miller appealed the Industrial Commission's award to the Missouri Court of Appeals, Eastern District.

Before the Eastern District, the employer argued that Miller's knee injury was not compensable under the 2005 amendments to the Workers' Compensation Act, since Miller was equally exposed to the hazards of walking briskly outside of his employment, as he was in his employment. In making this argument, the employer asserted that the facts of the case were significantly similar to those in *Bennett v. Columbia Health Care*, which the Missouri legislature expressly abrogated in the 2005 amendments. The Eastern District affirmed the Industrial Commission's award, concluding that the facts before it were indistinguishable from those in *Bennett*, as well as those in *Drewes v. TWA* and *Kasl v. Bristol Care, Inc.* It found that the legislature intended to exclude cases where the injury was from a hazard or risk unrelated to the worker's employment, to which the worker was equally exposed outside of employment,

from workers' compensation coverage. The Eastern District held that Miller failed to prove that he sustained an injury arising out of his employment because he did not prove that brisk walking was a hazard or risk related to his employment, to which he was not equally exposed outside of work. Because of general interest and importance, the Eastern District transferred the matter to the Missouri Supreme Court.

The Supreme Court affirmed the Industrial Commission's Award. It held that Miller's injury was not compensable, since there was no causal connection of the work activity to the injury, other than the fact of its occurrence while at work. The undisputed facts showed that Miller was walking briskly toward a work truck when he felt a pop and his right knee began to hurt. Miller admitted that his work did not require him to walk in an unusually brisk way; that Miller normally walked briskly at home and did nothing different than usual when walking at work that day; that nothing about the road surface, Miller's work clothes, or the job caused any slip, strain, or unusual movement; and that Miller did not fall or otherwise sustain any additional injuries due to the popping. Rather, Miller simply felt a pop in his knee. Before the Supreme Court, Miller did not assert that the Workers' Compensation Act, as amended in 2005, was not constitutional. Rather, Miller asserted that under the Act, as amended, he was entitled to recover workers' compensation benefits.

The Supreme Court rejected this contention. The uncontested facts showed that the injury occurred at work, in the course of employment, but that it did not arise out of the employment. As amended, the Act provided that an injury was to be deemed to arise out of the employment only if it did not come from a hazard or risk unrelated to the employment, to which the worker would have been equally exposed outside of and unrelated to the employment, in normal non-employment life. While Miller had argued that *Bennett v. Columbia Health Care* had affirmed an award of workers' compensation benefits on very similar facts, the Supreme Court found that the 2005 amendments, in particular Section 287.020.10, specifically abrogated the interpretation of the Workers' Compensation Act in *Bennett* and similar cases. The Supreme Court held that under the Act as amended, and given the express abrogation of *Bennett* and similar cases in Section 287.020.10, an injury would not be deemed to arise out of employment if it merely happened to occur while the employee was working, but work was not a prevailing factor, and the risk involved was one to which the worker would have been exposed equally in their normal, non-employment life. The injury did not occur because Miller fell due to some condition of his employment. When his knee popped, Miller was walking on an even road surface. Nothing about Miller's work caused his knee to pop. While Miller's injury arose during the course of employment, the court held that it did not arise out of that employment. Under the 2005 amendments, that was insufficient to permit recovery of workers' compensation benefits. Thus, Miller's injury was not compensable, since there was no causal connection of the work activity to the injury, other than the fact that it merely occurred while Miller was at work.

As its Opinion demonstrates, the Supreme Court has given full effect to the plain meaning of the 2005 amendments, redefining the terms “accident” and “injury”, and to Section 287.020.10, expressly abrogating *Bennett*, *Kasl* and *Drewes* and similar decisions. Moreover, as the Opinion shows, an injury will not be held to be compensable merely because it occurred while the employee was at work.